IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 23194 of 2004

Between:

N.Bhaskara Rao, S/o. Rathaiah,
Pedakakani Village & Mandal, Guntur District.

..... PETITIONER

AND

1 The Joint Collector, Guntur, Guntur District.
2 Revenue Divisional Officer, Guntur, Guntur District.
3 The Mandal Revenue Officer, Pedakakani, Guntur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 2nd respondent in not completing the enquiry and passing of final orders as directed by the 1st respondent, Guntur, in ACD Dis.No.37/2004 S7, dt.12-10-2004 as illegal, arbitrary and consequently set aside the orders of proceedings of 2nd respondent in Rc.No.3710/04 B, dt.19-07-2004 pending enquiry before the 2nd respondent.

Counsel for the Petitioner: MR.K.SRINIVAS

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is a Fair Price Shop Dealer of Pedakakani Village and Mandal, Guntur District. The 2nd respondent suspended his authorization through order, dated 19.07.2004. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent. He also filed an application seeking interim orders. The 1st respondent passed an order, dated 12.10.2004, directing the 2nd respondent to pass orders within one month, without indicating as to whether the order of suspension is affirmed or set aside. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The petitioner availed the remedy of appeal aggrieved by the order of suspension. The order passed by the first respondent on 12-10-2004 reads as under:

> "Perused the records and grounds of the appeal petition, the appeal petition is hereby remanded to the Revenue Divisional Officer, Guntur by directing him to dispose the case within a month from the date of receipt of the order, as the disciplinary proceedings are pending with the Revenue Divisional Officer, Guntur.
>
> Accordingly, the appeal petition is disposed of at admission stage"

It does not disclose whether the order of suspension is affirmed or set aside. The first respondent failed to appreciate the importance of remand. An appellate authority

can remand the proceedings to the original authority only when the order under appeal is set aside. The question of remanding the matter without setting aside the order under appeal does not arise. Further, he did not undertake any discussion nor recorded any finding on the contentions urged by the petitioner. The remedy of appeal provided for under the A.P.State Public Distribution System Control Order, 2001, cannot be reduced to an empty formality. On merits also the allegations against the petitioner are not so serious as to warrant suspension. The truth or otherwise of the allegations against the petitioner can be gone into in the enquiry that may have to be conducted.

Hence, the writ petition is allowed and the order, dated 19.07.2004, suspending the authorization is set aside. It is directed that the petitioner shall be entitled to continue as Dealer, pending the proceedings before the 2nd respondent. There shall be no order as to costs.

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15.12.2004

Note: Issue C.C. in three days

(B/o)

Jsu

To

1 The Joint Collector, Guntur, Guntur District.
2 Revenue Divisional Officer, Guntur, Guntur District.
3 The Mandal Revenue Officer, Pedakakani, Guntur District.

4 2CCs to the Government Pleader for civil Supplies, High

Court Buildings, Hyderabad. (O.U.T)

5 2CD copies.